

The House Committee on Economic Development and Tourism offers the following substitute to HB 196:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state purchasing, so as to provide for a short title; to provide for legislative intent;
3 to provide for definitions; to provide for a selection preference in state contracting for
4 certified service-disabled veteran business enterprises; to provide for a certification
5 procedure to be established by the Department of Administrative Services and the
6 Department of Veterans Service and reviewed biennially and updated as necessary; to
7 provide for requirements for application for, renewal of, and revocation of certification; to
8 provide for duties of the departments; to require the Department of Veterans Service to report
9 the percentage of service-disabled veteran business enterprises using the statewide contracts
10 register; to amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia
11 Annotated, relating to the Department of Transportation exercising its power to contract, so
12 as to provide for a selection preference in department contracting for certified
13 service-disabled veteran business enterprises; to provide for related matters; to repeal
14 conflicting laws; to provide for an effective date.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 This Act shall be known and may be cited as the "Georgia Service-Disabled Veteran
18 Business Enterprise Opportunity Act."

19 **SECTION 2.**

20 Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state
21 purchasing, is amended by adding a new part to read as follows:

"Part 6

50-5-139.

It is the intent of the General Assembly to rectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole and who have made extraordinary sacrifices on behalf of the nation, the state, and the public, by providing opportunities for service-disabled veteran business enterprises.

50-5-139.1.

For the purpose of this part, the term:

(1) 'Certified service-disabled veteran business enterprise' means a business that has been certified by the Department of Administrative Services to be a service-disabled veteran business enterprise as defined in paragraph (4) of this Code section.

(2) 'Department' means the Department of Administrative Services.

(3) 'Service-disabled veteran' means a veteran who is a permanent Georgia resident with a service-connected disability of 10 percent or greater as determined by the United States Department of Veterans Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

(4) 'Service-disabled veteran business enterprise' means an independently owned and operated business that:

(A) Employs 200 or fewer permanent full-time employees;

(B) Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;

(C) Is organized to engage in commercial transactions;

(D) Is domiciled in this state;

(E) Is at least 51 percent owned by one or more service-disabled veterans; and

(F) The management and daily business operations of which are controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

50-5-139.2.

(a) The department, when considering two or more bids, proposals, or replies for the procurement of commodities or contractual services, at least one of which is from a certified service-disabled veteran business enterprise, that are equal with respect to all

relevant considerations, including price, quality, and service, shall award such procurement or contract to the certified service-disabled veteran business enterprise.

(b) If a service-disabled veteran business enterprise entitled to the vendor preference pursuant to this Code section and one or more businesses entitled to this preference or another vendor preference provided by law submit bids, proposals, or replies for procurement of commodities or contractual services that are equal with respect to all relevant considerations, including price, quality, and service, then the department shall award the procurement or contract to the business having the smallest net worth.

(c) Political subdivisions of the state are encouraged to offer a similar consideration to businesses certified under this Code section.

50-5-139.3.

(a) The application for certification as a service-disabled veteran business enterprise must, at a minimum, include:

(1) The name of the business enterprise applying for certification and the name of the service-disabled veteran submitting the application on behalf of the business enterprise.

(2) The names of all owners of the business enterprise, including owners who are service-disabled veterans and owners who are not service-disabled veterans, and the percentage of ownership interest held by each owner.

(3) The name of all persons involved in both the management and daily operations of the business, including the spouse or permanent caregiver of a veteran with a permanent and total disability.

(4) The service-connected disability rating of all persons listed under paragraphs 1, 2, and 3 of this subsection, as applicable, with supporting documentation from the United States Department of Veterans Affairs or the United States Department of Defense.

(5) The number of permanent full-time employees.

(6) The location of the business headquarters.

(7) The total net worth of the business enterprise and its affiliates. In the case of a sole proprietorship, the net worth includes personal and business investments.

(b) To maintain certification, a service-disabled veteran business enterprise shall renew its certification biennially.

(c) A certified service-disabled veteran business enterprise must notify the department within 30 business days after any event that may significantly affect the certification of the business, including, but not limited to, a change in ownership or change in management and daily business operations.

(d) The certification of a service-disabled veteran business enterprise shall be revoked for 12 months if the department determines that the business enterprise violated subsection (c)

of this Code section. An owner of a certified service-disabled veteran business enterprise whose certification is revoked is not permitted to reapply for certification under this subsection as an owner of any business enterprise during the 12-month revocation period. During the 12-month revocation period, a service-disabled veteran business enterprise whose certification has been revoked may bid on state contracts but is not eligible for any preference available under this section. A service-disabled veteran business enterprise whose certification has been revoked may apply for certification at the conclusion of the 12-month revocation period by complying with requirements applicable to initial certifications.

50-5-139.4.

The department shall:

(1) Identify eligible service-disabled veteran business enterprises by any electronic means, including e-mail or Internet website, or by any other reasonable means.

(2) Encourage and assist eligible service-disabled veteran business enterprises to apply for certification under this section.

(3) With assistance from the Department of Veterans Services, establish a certification procedure, which shall be reviewed biennially and updated as necessary.

(4) Grant, deny, or revoke the certification of a service-disabled veteran business enterprise under this section.

(5) Maintain an electronic directory of certified service-disabled veteran business enterprises for use by the state, political subdivisions of the state, and the public.

50-5-139.5.

The department shall submit a report biennially to the Department of Veterans Services reporting the percentage of certified service-disabled veteran business enterprises using the statewide contracts register.

50-5-139.6.

The Department of Veterans Services and the department, as appropriate, shall promulgate such rules as necessary to administer this section."

SECTION 3.

Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the Department of Transportation exercising its power to contract, is amended by adding a new subsection to Code Section 32-2-69, relating to the award of a contract to lowest reliable bidder, to read as follows:

124 "(e) The department, when considering two or more bids and at least one of such bids has
125 been submitted by a service-disabled veteran business enterprise as defined in Code
126 Section 50-5-139.1, shall award the contract to the certified service-disabled veteran
127 business enterprise, provided that such service-disabled veteran business enterprise has
128 submitted a bid that is equal with respect to all relevant conditions, including price, quality,
129 and service to the bids to which the department otherwise would have awarded the contract.
130 Prior to a service-disabled veteran business enterprise being awarded a contract pursuant
131 to this Code section, it shall first meet all conditions and requirements set out in this article
132 to qualify it for submitting a bid to the department."

133 **SECTION 4.**

134 All laws and parts of laws in conflict with this Act are repealed.